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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,649	05/19/2004	Jana Rosenblatt	102241-0005	3648

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EXAMINER

DOAN, ROBYN KIEU

ART UNIT PAPER NUMBER

3732

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/709,649

**Applicant(s)**

ROSENBLATT, JANA

**Examiner**

Robyn Doan

**Art Unit**

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/11/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> .           |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the outer edge" in lines 4 and 6. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-8, 10, 13, 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kokuni (Japanese Pat. # 09028458A).

With regard to claim 1, Kokuni discloses a template for applying simulated eyebrows to a person's face (figs. 1-2) comprising a sheet of material (2) having a

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shape adapted to be disposed on a portion of a person's face and including upper, lower edges, right and left side edges (see attachment A), a cutout portion formed at a substantial midpoint of the lower edge and having a shape adapted to be positioned around a substantial portion of a person's nose (see attachment A). Kokuni further discloses a right eye hole (3) formed between the right edge and a substantial midpoint of the sheet, a left eye hole (3) formed between the left edge and a substantial midpoint of the sheet, a right eyebrow slot (4) formed above the right eye hole and below the upper edge, a left eyebrow slot (4) forming above the left eye hole and below the upper edge (see fig. 1). The right and left eyebrows slots having a desired shape of an eyebrow area to be simulated on a person's face (fig. 2). In regard to claim 5, Kokuni shows the right and left eyebrow slots each having inner portion (see attachment B) that extends in an upward direction and an outer portion (see attachment B) that extends in a downward direction. In regard to claim 6, Kokuni discloses a distance between the upper edge and the lower edge being sized such that the upper edge being adapted to be positioned on a person's forehead and the lower edge being adapted to be positioned on a person's cheekbones (see fig. 2). In regard to claims 7 and 10, Kokuni also discloses a fastening element which comprises an elastic band (5, page 2, paragraph 12 of the attached translation) adapted to temporarily secure the sheet around the person's head. In regard to claim 8, Kokuni shows a connecting element (see attachment B) forming adjacent to each of the right and left edges of the sheet and effective receive the fastening element. In regard to claim 13, Kokuni shows positioning a template on a person's face (fig. 2) such that an upper edge of the template being

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positioned on the person's forehead, a lower edge of the template being positioned on the person's cheekbones, a right edge of the template being positioned on the person's right temple and a left edge of the template being positioned on the person's left temple; the template also having right and left eye holes (3). Kokuni inherently shows horizontally aligning the template with the person's nose and vertically aligning the template with the person's eyes and ears. Kokuni also discloses a step of applying a simulated eyebrow (6, fig. 2) within right and left eyebrow slots (4) formed in the template above the right and left eye holes. In regard to claim 15, Kokuni discloses using an eyebrow pencil (fig. 2) to draw eyebrows with the right and left eyebrow slots. In regard to claims 16-17, Kokuni discloses the template being positioned on a person's face by using a strap (5, page 2, paragraph 12 of the attached translation).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 11-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokuni in view of Chateau (U.S. Pat. # 3,718,145).

With regard to claims 2-4, 11-12 and 14, 18, Kokuni discloses an eyebrow template comprising all the claimed limitations in claims 1 and 13 as discussed above

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except for one or more alignment mechanism comprise at least one of a first marking extending from the upper edge to the lower edge at a substantially midpoint of the sheet, a second marking extending between the right and left eyebrow slots (claims 2-4) and aligning a horizontal marking formed on the template with the person's nose and aligning a vertical marking formed on the template with a person's eyes and ears (claim 14) ; Kokuni also does not disclose the material of the sheet being flexible, semi-rigid and pre-shaped to conform to a portion of the person's face (claims 11-12). Chateau discloses an eyebrow template (12, fig. 1) being made of flexible material (col. 2, lines 61-62); Chateau also shows one alignment mechanism (19 "fleur-de-lis") being in a midpoint of the template. It is noted that fig. 1 shows "fleur-de lis" comprises four leaves, two of which lying on a horizontal direction (from the upper to the lower edge of the template) and the other two leaves lying on a vertical direction (from the left of the eyebrow slot to the right side of the eyebrow slot), therefore, it concludes that Chateau shows at least one of a first marking extending from the upper edge to the lower edge at a substantially midpoint of the sheet, a second marking extending between the right and left eyebrow slots; furthermore, Chateau inherently shows a step of aligning the horizontal, vertical markings formed on the template. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the flexible material and the alignment mechanism as taught by Chateau into the eyebrow template of Kokuni for the purpose of centering the template to facilitate symmetrical application of the eyebrow makeup. And it would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the material of the



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sheet being semi-rigid, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. In regard to claim 18, as discussed above in claim 1, Kokuni discloses an eyebrow template comprising all the claimed limitations; Kokuni does not show a plurality of templates and each having a size that differs relative to one another. Chateau discloses a kit of eyebrow stencils comprising a plurality of eyebrow templates and each having a size that differs relative to one another (col. 3, lines 70-74). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the way of providing a plurality of eyebrows templates and each having a size that differs relative to one another as taught by Chateau into the device of Kokuni in order to provide the user with multiple selections of templates.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kokuni in view of Hirzel (IDS cited reference).

With regard to claim 9, Kokuni disclose an eyebrow template comprising all the claimed limitations in claims 1, 7-8 as discussed above except for the connecting element having a hole formed adjacent each of the right and left edges of the sheet. Hirzel discloses an eyebrow template (fig. 2) comprising a sheet of material (10) having a right (at 75, fig. 1) and left edges, a fastening element (24) and a connecting element having a hole (18, fig. 1) formed adjacent to each of the right and left edges for effective receive the fastening element. It would have been obvious to one having an ordinary

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skill in the art at the time the invention was made to employ the connecting hole as taught by Hirzel into the eyebrow template of Kokuni in order to interchange a variety of fastening elements.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawakami is cited to show the state of the art with respect to a kit of the eyebrow templates. Davis is cited to show the state of the art with respect to a method of applying eye shadow.

The drawings filed 05/19/2004 have been approved by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Robyn', with a long, sweeping horizontal line extending to the right.

Robyn Doan  
Examiner  
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Continuation of Attachment(s) 6). Other: Attachment A, B and machine translation.

用プレート9は、眉6を剃る場合に使用するものである。化粧用プレート9は、覆面板10に、接眼孔11を設け、覆面板10の上縁10aを眉形状の曲線としている。覆面板10を顔に被り、接眼孔11が目にくるようにすると、覆面板10の上縁10aがちょうど眉6の上部に位置するので、この上縁10aの形状に合わせて眉6を剃れば、眉6の形状をきれいに整えることができる。

【0017】上縁10aの形状は、特に限定していないので、上縁10aの曲線形状が異なる化粧用プレート9を何種類か用意しておき、その中から選択できるようにしておけば、各人の好みに応じた形状の眉に整えることができる。

【0018】図5は第4実施例の化粧用プレートの使用状態を示す正面図である。図5に示す第4実施例の化粧用プレート12も、第3実施例の化粧用プレート9と同様、眉を剃る場合に使用するものである。使い方は、第3実施例の化粧用プレート9とほぼ同じであるが、化粧用プレート12は、透明な素材で覆面板13を作成している。覆面板13が透明であるため、接眼孔が不要であるとともに、覆面板8全体を通して外が見えるので視野が広く、剃毛がやり易い。また、接眼孔がないので、剃った眉毛等が目に入るのを防止することもできる。

【0019】これまでに述べてきたものは、実施例に過ぎず、本発明はこれら実施例に限定されるものではない。したがって、形状、素材等については、実施例のものに限定されるものではなく、同様の作用、効果を有するものであれば、他の形状、素材等を採用することができる。

【0020】

【発明の効果】本発明により、以下のような効果を奏す

ることができる。

【0021】(a) 本発明の化粧用プレートでは、覆面板に所定の眉形状をした切欠孔を設けているので、この切欠孔に合わせて眉を描けば、眉の形状をきれいに上げることができる。

【0022】(b) また、本発明の化粧用プレートでは、覆面板の上縁を所定の眉形状としているので、この上縁に合わせて眉毛を剃れば、眉の形状をきれいに整えることができる。

【0023】(c) 本発明の化粧用プレートは、アイマスクのように、顔に被るだけで使用できるので、使い方は極めて簡単である。

【図面の簡単な説明】

【図1】第1実施例の化粧用プレートを示す斜視図である。

【図2】第1実施例の化粧用プレートの使用状態を示す正面図である。

【図3】第2実施例の化粧用プレートの使用状態を示す正面図である。

【図4】第3実施例の化粧用プレートの使用状態を示す正面図である。

【図5】第4実施例の化粧用プレートの使用状態を示す正面図である。

【符号の説明】

1, 7, 9, 12 化粧用プレート

2, 8, 10, 13 覆面板

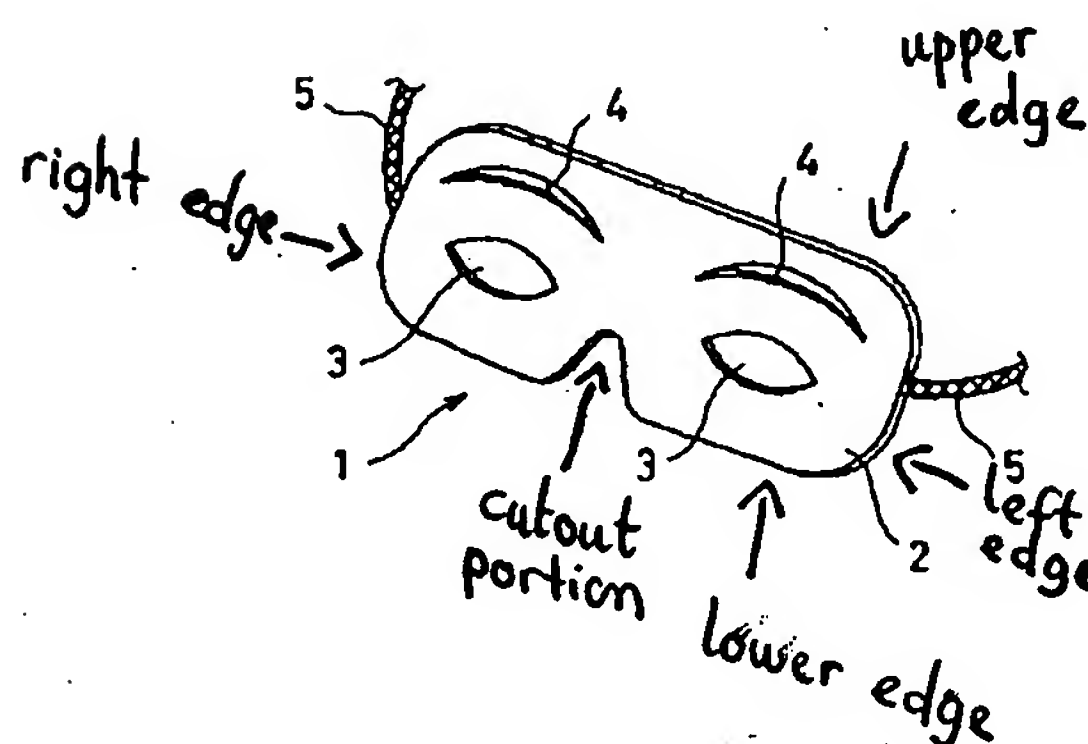
3, 11 接眼孔

4 切欠孔

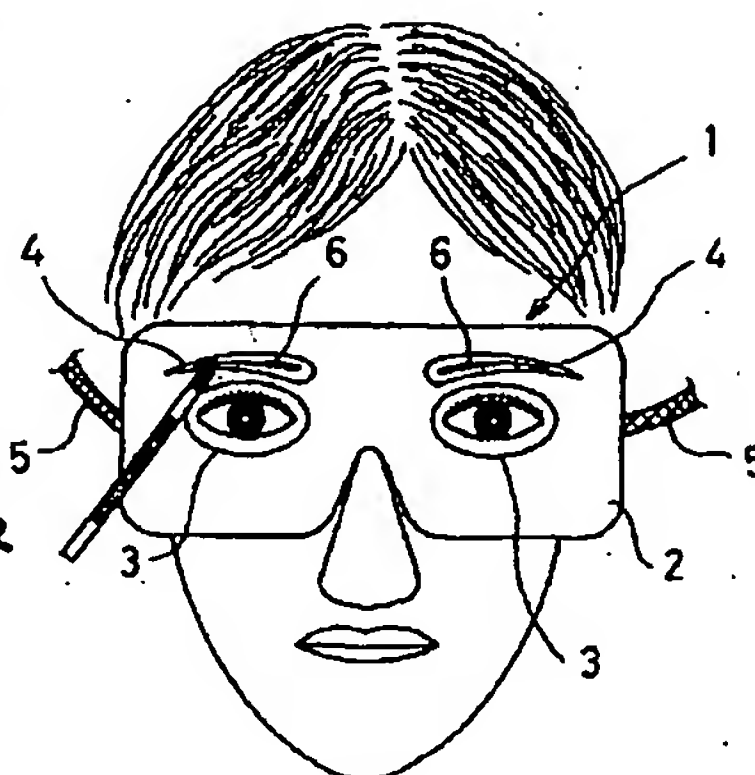
5 ゴムバンド

30 6 眉

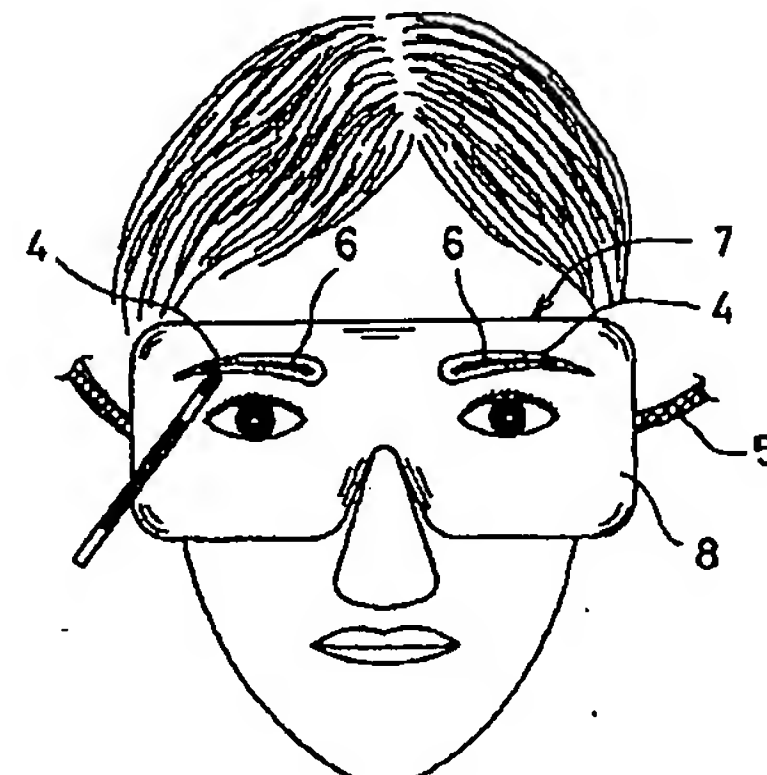
【図1】



【図2】



【図3】



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【図3】第2実施例の化粧用プレートの使用状態を示す正面図である。

【図4】第3実施例の化粧用プレートの使用状態を示す正面図である。

【図5】第4実施例の化粧用プレートの使用状態を示す正面図である。

【符号の説明】

1, 7, 9, 12 化粧用プレート

2, 8, 10, 13 覆面板

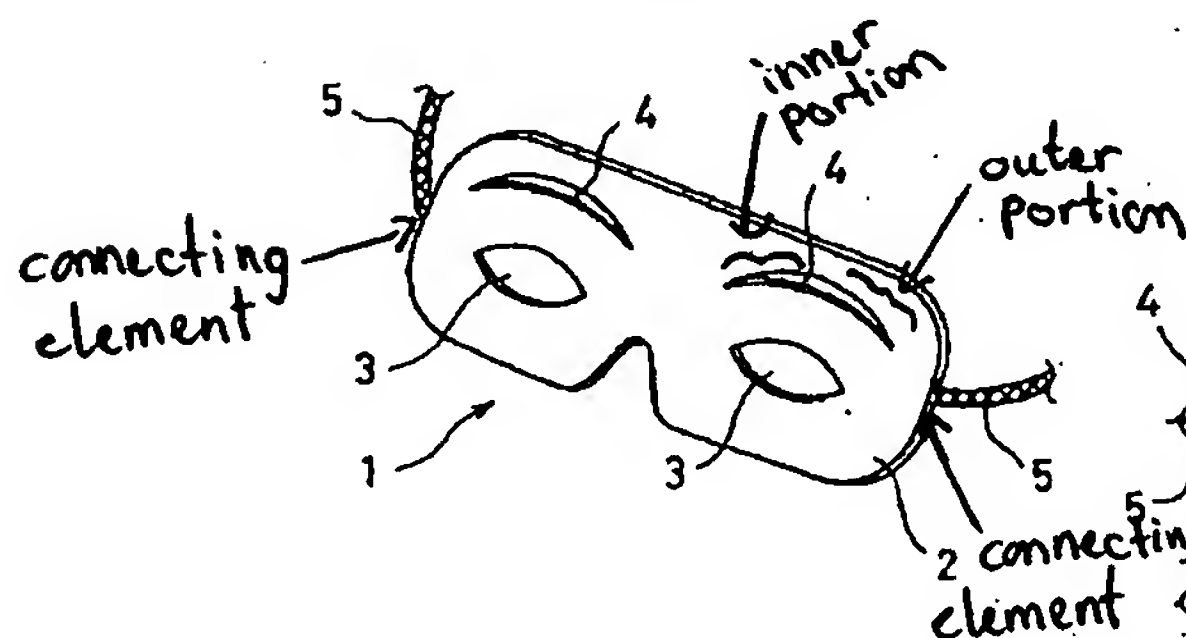
3, 11 接眼孔

4 切欠孔

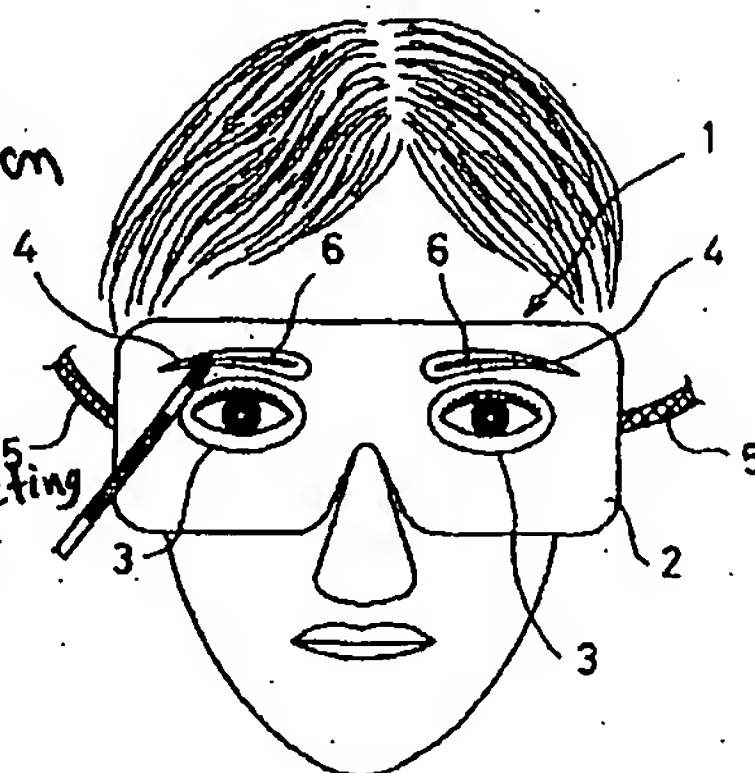
5 ゴムバンド

30 6 眉

【図1】



【図2】



【図3】

